

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SEYED MOHSEN HOSSEINI-SEDEHY,

Plaintiff,

v.

ERIN T. WITHINGTON  
and CITY OF BOSTON,

Defendants.

MAGISTRATE JUDGE

Civil Action No.

04 11948 RGS

RECEIPT #	52500
AMOUNT \$	150
SUMMONS ISSUED	9/27
LOCAL RULE 4.1	
WAIVER FORM	
MCF ISSUED	
BY DPTY. CLK.	9/27/04
DATE	9/11/04

**COMPLAINT AND JURY DEMAND**

*PARTIES*

1. Seyed Mohsen Hosseini-Sedehy ("Plaintiff") is an individual, who resides at 106 13<sup>th</sup> Street, Charlestown, Massachusetts.

2. Defendant Erin T. Withington, also known as, Erin T. Schroeder, is an individual, who resides at 25 Beaufield Street, Dorchester, Massachusetts. Defendant Withington is employed by the City of Boston as a police officer.

3. Defendant City of Boston ("Defendant City of Boston") is a city located in Suffolk County, Massachusetts.

*JURISDICTION*

4. The Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. § 1331 because this civil action arises under the Constitution of the United States and 42 U.S.C. § 1983.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 (b) because both defendants reside in this judicial district and the events giving rise to this civil action occurred in this judicial district.

*FACTUAL ALLEGATIONS*

6. The Plaintiff was born in Iran. He received a bachelors of science degree from the University of Iowa in 1984 and his masters degree in applied math from the University of Iowa in 1986.

7. The Plaintiff is married with a son. The Plaintiff became a United States citizen in 1992.

8. The Plaintiff has been employed by GES Exposition Services (“GES”) since 1991. GES performs general contractor services for conventions and trade shows.

9. GES hired members from the local Teamsters union to perform labor for conventions and trade shows in Boston. Since 2002, the Plaintiff has supervised the Teamsters employed by GES in Boston.

10. In 2002, Joseph Bavis was a Teamster occasionally employed by GES. In late 2002, Bavis claimed a physical disability preventing him from working and collected disability payments from the Teamsters.

11. After Bavis exhausted his disability benefits from the Teamsters, he sought to return to work for GES. When GES refused to employ Bavis in July 2003, Bavis initiated a labor dispute against GES and the Teamsters. GES refused to employ Bavis until late February 2004.

12. In retaliation for his labor dispute with GES, Bavis made a false report of sexual assault against the Plaintiff to Defendant Withington in her capacity as a Boston police officer.

13. Although Bavis did not work for GES at any time in 2003, Bavis told Defendant Withington the Plaintiff sexually assaulted him while Bavis was at work for GES in 2003. Bavis gave Defendant Withington contradicting dates in 2003 for the false sexual assault allegation.

14. Defendant Withington knew, should have known, or acted in reckless disregard of the fact that Bavis's allegations against the Plaintiff were false.

15. On March 22, 2004, Defendant Withington, in her capacity as a Boston police officer, provided information that she knew was false, should have known was false, or presented in reckless disregard of the truth to a clerk magistrate at the Boston Municipal Court in an effort to obtain a criminal complaint against the Plaintiff and an arrest warrant for the Plaintiff.

16. Based upon the false information provided by Defendant Withington, the clerk magistrate of the Boston Municipal Court granted Defendant Withington's request for a criminal complaint against the Plaintiff and an arrest warrant for the Plaintiff.

17. On March 22, 2004, Defendant Withington, in her capacity as a Boston police officer, falsely arrested and detained the Plaintiff while the Plaintiff was at work for GES at the Hynes Convention Center.

18. On June 14, 2004 the Suffolk County District Attorney filed a nolle prosequi with respect to Defendant Withington's criminal complaint against the Plaintiff.

19. As a result of Defendant Withington's false arrest and the detention of the Plaintiff, the Plaintiff has suffered damages.

*COUNT I*  
*Defendant Withington's Violation of the Plaintiff's Civil Rights*

20. The Plaintiff repeats his allegations and incorporates herein by reference paragraphs 1-19.

21. The Plaintiff had a right to be free from an unreasonable seizure protected by the United States Constitution.

22. On March 22, 2004, the Plaintiff was deprived of his right to be free from an unreasonable seizure.

23. The Plaintiff was deprived of his right to be free from an unreasonable seizure by the reckless or intentional conduct of Defendant Withington acting under the color of law.

24. As a result of Defendant Withington's actions depriving him of his right to be free from an unreasonable seizure, the Plaintiff has suffered damages.

*COUNT II*  
*Defendant City of Boston's Violation of the Plaintiff's Civil Rights*  
*for Failure to Train Defendant Withington Properly*

25. The Plaintiff repeats his allegations and incorporates herein by reference paragraphs 1-24.

26. Defendant City of Boston failed to train properly Defendant Withington as a police officer employed by Defendant City of Boston.

27. Defendant City of Boston's failure to train properly Defendant Withington as a police officer was the product of Defendant City of Boston's deliberate indifference to the federal constitutional rights of its citizens.

28. Defendant City of Boston's failure to train properly Defendant Withington as a police officer was Defendant City of Boston's policy or custom.

29. Defendant City of Boston's failure to train properly Defendant Withington as a police officer caused the Plaintiff's damages.

*COUNT III*

*Defendant City of Boston's Violation of the Plaintiff's Civil Rights  
for Failure to Supervise Defendant Withington Properly*

30. The Plaintiff repeats his allegations and incorporates herein by reference paragraphs 1-29.

31. Defendant City of Boston failed to supervise properly Defendant Withington as a police officer employed by Defendant City of Boston.

32. Defendant City of Boston's failure to supervise properly Defendant Withington as a police officer was the product of Defendant City of Boston's deliberate indifference to the federal constitutional rights of its citizens.

33. Defendant City of Boston's failure to supervise properly Defendant Withington as a police officer was Defendant City of Boston's policy or custom.

34. Defendant City of Boston's failure to supervise properly Defendant Withington as a police officer caused the Plaintiff's damages.

**REQUEST FOR RELIEF**

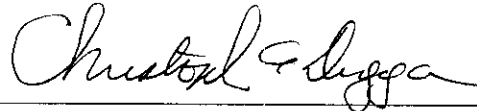
WHEREFORE, the Plaintiff requests that the court:

- a) Enter judgment against Defendant Withington on all counts of this Complaint;
- b) Enter judgment against Defendant City of Boston on all counts of this Complaint;
- c) Award the Plaintiff his actual damages caused by Defendant Withington;
- d) Award the Plaintiff his actual damages caused by Defendant City of Boston;
- e) Award the Plaintiff all appropriate costs, expenses, attorneys' fees and interest authorized by law; and
- f) Award the Plaintiff such other relief deemed just and appropriate.

**JURY TRIAL DEMAND**

The Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,  
Seyed Mohsen Hosseini-Sedehy  
By his attorneys,



Christopher A. Duggan  
BBO # 544150  
Gerard A. Butler, Jr.  
BBO # 557176  
Smith & Duggan LLP  
Lincoln North  
55 Old Bedford Road  
Lincoln, MA 01773-1125  
(617) 228-4400

Date: September 2, 2004

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Seyed Mohsen Hosseini-Sedehy v.  
Erin T. Withington and City of Boston

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- X   II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

04 11948 RGS

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES

NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES

NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES

NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES

NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES

NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division

Central Division

Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division

Central Division

Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES

NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Christopher A. Duggan

ADDRESS Smith & Duggan LLP, Lincoln North, 55 Old Bedford Road, Lincoln, MA 01773

TELEPHONE NO. 617-228-4400

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Seyed Mohsen Hosseini-Sedehy

(b) County of Residence of First Listed Plaintiff Suffolk  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Christopher A. Duggan  
Smith & Duggan LLP  
Lincoln North, 55 Old Bedford Road  
Lincoln, MA 01773 Tel. 617-228-4400

## DEFENDANTS

Erin T. Withington  
City of Boston

County of Residence of First Listed Suffolk  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4  
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13950) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C'DIW W (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Force Closure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 U.S.C. §1983 The Plaintiff was falsely arrested and deprived of his right to be free from an unreasonable seizure

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

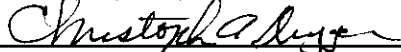
(See instructions):

JUDGE

DOCKET NUMBER

DATE  
September 2, 2004

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_